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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,615	09/05/2003	Frank Sterns	20040-1-0220	8018

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EXAMINER

DABNEY, PHYLESHA LARVINIA

ART UNIT PAPER NUMBER

2615

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/656,615

Applicant(s)

STERNS, FRANK

Examiner

Phylesha L. Dabney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

This action is in response to the response received on 22 May 2006 in which claims 1-23 are pending.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 6, 9, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Reich II (U.S. Patent No. 4,489,770).

Regarding claim 1, Reich teaches a loudspeaker assembly (figs. 1-5), comprising: a loudspeaker baffle (17, 17a), the baffle being provided with at least one opening (45, 45a) for audio wave output; and, at least one transducer (15) mounted to the baffle by a flange (55, 55a) that secures a portion of the mounted transducer between the flange and a surface of the baffle such that the audio waves emanating from a mounted transducer avoid being distorted by the baffle.

Regarding claim 6, Reich teaches an outdoor loudspeaker assembly (figs. 1-5), comprising: a loudspeaker baffle (17, 17a), the baffle being provided with at least one opening (45, 45a) for audio wave output; and, at least one transducer (15) mounted to the baffle by a flange (55, 55a) that secures a portion of the mounted transducer between the flange and a

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surface of the baffle such that the audio waves emanating from a mounted transducer avoid being distorted by the baffle.

Regarding claim 9, Reich teaches a loudspeaker assembly (figs. 1-5), comprising: a loudspeaker baffle (17, 17a), the baffle being provided with at least one opening (45, 45a) for audio wave output; a flange (55, 55a) which reads on the wall of the bag for holding a speaker, the flange (55, 55a) being recessed the same distance as the baffle's surface thickness which reads on the flange directly abutting against the baffle (figs. 4-5); and, at least one transducer (15) mounted to the baffle by the flange such that a portion of the mounted transducer is secured between the flange and a surface of the baffle such that the audio waves emanating from a mounted transducer avoid being distorted by the baffle.

Regarding claim 14, Reich teaches a loudspeaker assembly (figs. 1-5), comprising: a loudspeaker baffle (17, 17a), the baffle being provided with at least one opening (45, 45a) for audio wave output; a flange (55, 55a) which reads on the wall of the bag for holding a speaker, the flange (55, 55a) being recessed the same distance as the baffle's surface thickness which reads on the flange directly abutting against the baffle (figs. 4-5); and, at least one transducer (15) mounted to the baffle by the flange such that the outermost face of the transducer is substantially flush with the baffle's surface.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims **2-5, 7-8, 10-13, and 15-19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Reich II.

Regarding claims 2-3, 7-8, 10-11, 15-16, Reich does not teach the assembly is provided with a natural rock or natural wood appearance. However, Reich teaches the assembly being a waterproof bag. It is known in the art to colorize and style bags in any form, such as a red, yellow, wood, or rock coloring, for aesthetic appeal. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to colorize the invention of Reich in any coloring and/or style for aesthetic appeal.

Regarding claims 4-5, 12-13, and 17-18, Reich teaches the assembly is useable in an outdoor environment (sailing or windsurfing; col. 1 lines 37-42).

3. Claims **19-23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Reich II in view of Fulcher (U.S. Patent No. 5,802,197).

Regarding claim 19, Reich teaches a loudspeaker assembly, comprising: a loudspeaker baffle (17, 17a), the baffle being provided with at least one opening (45, 45a) for audio wave output; a grille configuration (fig. 4, 47); a flange (55, 55a) attached to the baffle; and, at least

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one transducer (15) mounted to the baffle by the flange such that the audio waves emanating from a mounted transducer avoid being distorted by the baffle and the frame, wherein the outmost face of the transducer is substantially flush with an outermost surface of the.

Reich does not specifically teach how the grille configuration is formed or what kind of interface the frame (47) provides for attaching a grille to the baffle (fig. 4). Fulcher teaches forming a grille configuration of a grille (14) and grille frame (12) to stably protect the loudspeaker. Therefore, it would have been one of ordinary skill in the art at the time the invention was made to use the grille configuration of Fulcher in the invention of Reich for providing stable protection.

Regarding claims 20-21, the combination of Reich and Fulcher does not teach the assembly is provided with a natural rock or natural wood appearance. However, Reich teaches the assembly being a waterproof bag. It is known in the art to colorize and style bags in any form, such as a red, yellow, wood, or rock coloring, for aesthetic appeal. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to colorize the invention of Reich in any coloring and/or style for aesthetic appeal.

Regarding claims 22-23, the combination of Reich and Fulcher teaches the assembly is useable in an outdoor environment (sailing or windsurfing; col. 1 lines 37-42).

#### ***Response to Arguments***

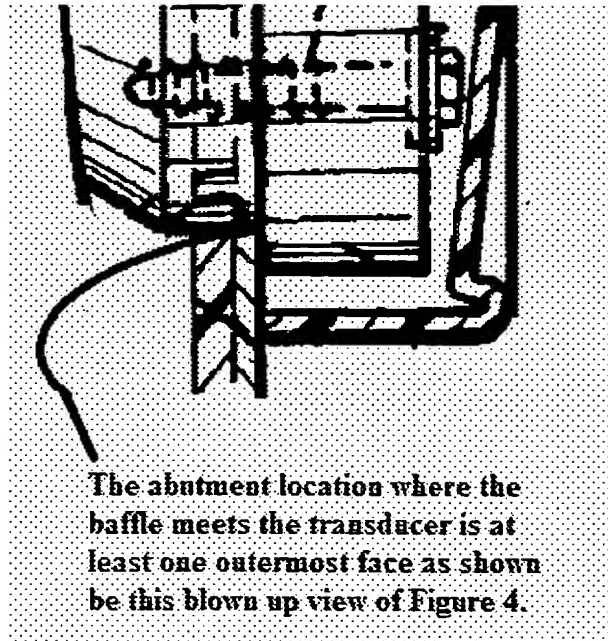
4. Applicant's arguments filed have been fully considered but they are not persuasive.

5. With respect to the Applicant's argument pertaining to claims 1, 6, and 9 that Reich fails to teach *a portion of the mounted transducer is secured between the flange and a portion of the baffle*. The Examiner disagrees.

Reich teaches that a portion of the mounted transducer is secured between the flange and a portion of the baffle (see illustration below). Furthermore, the term "secured" does not dictate a means by which the transducer must be secured, nor does the claimed language stipulate the fasteners can not be used. Thus, the rejection is maintained.

6. With respect to the Applicant's argument pertaining to claims 14, 19-21, 20-23 that Reich or the combination of Reich and Fulcher fails to teach *the outermost face of the transducer is not flush with the outermost face of the baffle*. The Examiner disagrees.

The transducer and baffle disclosed in Reich have multiple sides/outermost faces. And, Reich teaches at least one outermost face of the transducer substantially flush with an outermost face of the baffle (see illustration below).



7. Further note: claims 22-23 were previously included in Paragraph 2 (35 USC 103(a) using Reich II solely); however, upon review, it was noted that claims 22-23 are dependent on claim 19 which was rejected under (35 USC 103(a) using Reich II in view of Fulcher). The rejection remains the same since the supporting material was found in Reich, and the dependency oversight has been corrected above.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kieltyka (U.S. Patent No. 5,802,193) teaches an outdoor loudspeaker assembly (fig. 1), comprising: a loudspeaker baffle (46), the baffle being provided with at least one opening for audio wave output; and, at least one transducer (32) mounted to the baffle such that the audio waves emanating from a mounted transducer avoid being distorted by the baffle.



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**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phylesha L. Dabney whose telephone number is 571-272-7494. The examiner can normally be reached on Mondays, Tuesdays, Wednesdays, Fridays 8:30-4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

**Any response to this action should be mailed to:**  
Commissioner of Patents and Trademarks  
P O Box 1450  
Alexandria, VA 22313-1450

**Or faxed to:**  
(703) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "Proposed" or "Draft" when submitting an informal amendment.

**Hand-delivered responses should be brought to:**  
Customer Service Window  
Randolph Building  
401 Dulany Street

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Alexandria, VA 22314

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

July 27, 2006

  
PLD

  
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